

REMARKS

Claims 4-6, 12, 14-19, 22-24, 30, and 32-37 are pending the present application.

In the office action mailed August 11, 2006 (the "Office Action"), the Examiner rejected claims 4-10, 12, 14-19, 22-24, 30, and 32-37 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,005 to Lesaint *et al.* (the "Lesaint patent") in view of U.S. Patent No. 5,615,121 to Babayev *et al.* (the "Babayev patent").

Applicants' remarks from the previously filed responses are maintained. The remarks in the present response identify further deficiencies in the Examiner's rejection of the claims.

Claims 4-6, 12, 14-19, 22-24, 30, and 32-37 are patentable over the Lesaint patent in view of the Babayev patent because the combined teachings of the two cited references fail to teach or suggest the combination of limitations recited by the respective claims. The Examiner has mischaracterized the teachings of the Lesaint and Babayev patents in order to support the rejection of the claims under 35 U.S.C. 103(a). However, in reviewing the Examiner's arguments, the cited references, and the language of the claims, it will be apparent that the rejections of claims 4-6, 12, 14-19, 22-24, 30, and 32-37 cannot be maintained.

Applicants' previously argued, among other things, that the Lesaint patent does not disclose calculating a "difference travel time." In response to Applicants' arguments, the Examiner responds by arguing that the Lesaint patent "discloses both a travel time between a first and second task (i.e., the scheduled tasks) and the difference travel time (i.e., time between the inserted task and the next scheduled task)." *See* the Office Action at page 8. The Examiner identifies the difference travel time disclosed in the Lesaint patent as the "amount of time between the inserted task (i.e., order) and the next scheduled task." *See id.*

Even if we assume that the Examiner's characterization of the Lesaint patent is accurate, that is, the Lesaint patent teaches a difference travel time that is the amount of time between an inserted task and the next scheduled task, the Examiner's argument actually supports Applicants' arguments. As recited in the claims, the calculated difference travel time is defined as a result of a subtraction of the travel time between the first activity and the second activity and the travel time of the order and the second activity. The limitation is described at paragraphs 34 and 35 (with reference to U.S. Patent Application Publication No. 2001/0047287). The

difference travel time is mathematically represented as: $\delta = t(n,c) - t(b,c)$, where $t(n,c)$ is the travel time from the new order “n” to an existing subsequent order “c,” and $t(b,c)$ is the travel time from existing order “b” to existing order “c.” The “difference travel time” that is taught by the Lesaint patent, according to the Examiner, is analogous to $t(n-c)$, that is, the “amount of time between the inserted task [n] (i.e., order) and the next scheduled task [c].” See the Office Action at page 8. Referencing the language of the claims and the mathematical expression previously discussed, the “difference travel time” recited in the claims is not the same as the “difference travel time” as taught by the Lesaint patent. The “difference travel time” of the Lesaint patent is only one part (i.e., $t(n-c)$) of the “difference travel time” defined in the present claims, but the two “difference travel times” are clearly not equal. By failing to teach a difference travel time that is analogous to the difference travel time recited in the claims, the Lesaint patent further fails to teach *calculating* such a difference travel time. The Examiner also argues that the Lesaint patent teaches computing an amount of free time required in a shift to fit an order by summing the travel time, *difference travel time*, and job time. However, as previously discussed, the Lesaint cannot teach summing these times because it fails to teach calculating a difference travel time as recited in the claims.

The Examiner further argues that the Lesaint patent teaches computing an amount of time that the portion of the shift can be relocated by aggregating a number of virtual free time blocks in the portion of the shift. See the Office Action at page 4. The Examiner cites column 22, lines 31-39 in support of the argument, which discloses, “[f]or it to be possible to fit the task into the tour the gap must be big enough to include the task or, if not, it must be possible to delay all the subsequent tasks in order to create a gap large enough to insert the task.” See col. 22, lines 35-39. As described in the Lesaint patent, a gap large enough to insert a task can be created by *delaying* existing subsequent tasks. In contrast, the claims recite that computing extra time includes aggregating a number of virtual free time blocks in the portion of the shift. Unlike the teachings of the Lesaint patent, aggregating the number of virtual free time blocks includes relocating existing orders *both later and earlier* to create a virtual time block large enough to fit a order.

Examples of aggregating virtual free time blocks are illustrated in Figures 8A-C and described at paragraphs 46-51 of the present application. The examples illustrated in Figures

8A and 8B, and described at paragraphs 46-50, are directed to aggregating virtual free time blocks by relocating orders to later times in the shift. The example illustrated in Figure 8C and described at paragraph 51, however, is directed to aggregating virtual free time blocks by relocating orders to earlier times in the shift. More specifically, by relocating orders 3, 2, and 1 earlier in the shift, the virtual free time block 804 is enlarged to accommodate an order. The Lesaint patent does not teach aggregating a number of virtual free time blocks in the portion of the shift, which includes relocating existing orders to both earlier and later times in a shift.

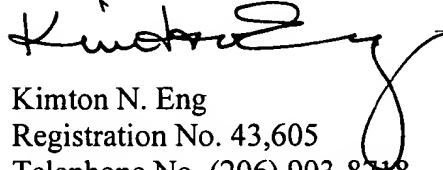
The Babayev patent, which has been cited by the Examiner as teaching providing an alternative appointment time close to a customer preferred time interval if the customer preferred time cannot be accommodated. *See* the Office Action at page 4. Even if we consider the Examiner's characterization of the Babayev patent to be accurate for the sake of argument, the Babayev still fails to make up for the deficiencies of the Lesaint patent previously discussed.

For the foregoing reasons, claims 4 and 22 are patentable over the Lesaint patent in view of the Babayev patent. Claims 5, 6, 12, and 14-19, which depend from claim 4, and claims 23, 24, 30, and 32-37, which depend from claim 22, are similarly patentable based on their dependency from a respective allowable base claim. Therefore, the rejection of claims 4-6, 12, 14-19, 22-24, 30, and 32-37 under 35 U.S.C. 103(a) should be withdrawn.

All of the claims pending in the present application are in condition for allowance.
Favorable consideration and a timely Notice of Allowance are earnestly solicited.

Respectfully submitted,

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Fee Transmittal Sheet (+ copy)

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